

Maine Revised Statutes

Title 32: PROFESSIONS AND OCCUPATIONS

Chapter 69-B: REGULATIONS OF THE SALE OF BUSINESS OPPORTUNITIES

§4691. DEFINITIONS

As used in this chapter, unless the context indicates otherwise, the following terms shall have the following meanings. [1979, c. 571, (NEW).]

1. Affiliated person. "Affiliated person" means a person who:

A. Directly or indirectly controls, is controlled by or is under common control with, a seller; [1979, c. 571, (NEW).]

B. Directly or indirectly owns, controls or holds with power to vote, 10% or more of the outstanding voting securities of a seller; or [1979, c. 571, (NEW).]

C. Has, in common with a seller, one or more partners, officers, directors, trustees, branch managers or other persons occupying similar status or performing similar functions. [1979, c. 571, (NEW).]

[1979, c. 571, (NEW).]

2. Business day. "Business day" means any day other than Saturday, Sunday or the following national holidays: New Year's Day; Washington's Birthday; Memorial Day; Independence Day; Labor Day; Columbus Day; Veteran's Day; Thanksgiving and Christmas.

[1979, c. 571, (NEW).]

3. Business opportunity. "Business opportunity" means:

A. The sale, lease or distribution of any services, products, equipment, supplies, goods or commodities, including plants used for cultivation and animals used for breeding, that are sold, leased or distributed by the seller or an affiliated person to the purchaser for the purpose of enabling the purchaser to start a business, for which the purchaser is required to pay an amount that exceeds \$250 either as a single payment or in multiple payments during any consecutive 6-month period and in which the seller represents that:

(1) The seller or an affiliated person will provide locations or assist the purchaser in finding locations for the use or operation of vending machines, racks, display cases or other similar devices or currency-operated amusement machines or devices, on premises neither owned nor leased by the purchaser or seller;

(2) The seller or an affiliated person will purchase any or all products made, produced, fabricated, grown, bred or modified by the purchaser using in whole or in part, the supplies, services or chattels sold to the purchaser;

(3) The seller guarantees that the purchaser will derive income from the business opportunity that exceeds the price paid for the business opportunity;

(4) If the purchaser is unsatisfied with the business opportunity, the seller will refund all or part of the price paid for the business opportunity, or repurchase any of the products, equipment, supplies or chattels supplied by the seller; or

(5) The seller or an affiliated person will provide a sales program or marketing program except that this subsection does not apply to a marketing program provided in conjunction with the licensing of a federally registered trademark or service mark; and [1991, c. 210, §1 (AMD).]

B. "Business opportunity" does not include the sale of an ongoing business when the owner of that business sells and intends to sell only that one business opportunity; nor does it include the not-for-profit sale of sales demonstration equipment, materials or samples, for a total price of \$500 or less. [1985 , c. 597, §1 (AMD) .]

[1991, c. 210, §1 (AMD) .]

4. Permanent place of business. "Permanent place of business" means any building or other permanently affixed structure, including a home residence, which is owned or held under a 12-month lease or rental agreement at the time business is commenced and is used in whole or in part for the purpose of engaging in sales or promotion of business opportunities.

[1979, c. 571, (NEW) .]

5. Purchaser. "Purchaser" means a person who purchases, leases or communicates with a seller concerning the purchase or lease of a business opportunity.

[1979, c. 571, (NEW) .]

6. Seller. "Seller" means a person who sells, leases or distributes or offers to sell, lease or distribute, advertises or undertakes any other act relating to the promotion of business opportunities.

[1979, c. 571, (NEW) .]

SECTION HISTORY

1979, c. 571, (NEW). 1985, c. 597, §1 (AMD). 1991, c. 210, §1 (AMD).

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